

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JOHN FRALISH on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

CETERIS PORTFOLIO SERVICES, LLC,

Defendant.

Case No. 3:22-CV-176 DRL-MGG

CLASS ACTION

**DECLARATION OF VANESSA
SANTACRUZ RE: NOTICE
PROCEDURES**

I, Vanessa Santacruz, declare and state as follows:

1. I am a Case Coordinator with KCC Class Action Services, LLC (“KCC”), located at 222 Pacific Coast Highway, El Segundo, CA 90245. Pursuant to the Order Preliminarily Approving Class Action Settlement (the “Preliminary Approval Order,” ECF Doc. No. 45) dated May 19, 2023, the Court appointed KCC as the Settlement Administrator in connection with the proposed Settlement of the above-captioned Action.¹ I have personal knowledge of the matters stated herein and, if called upon, could and would testify thereto.

CLASS LIST

1. On May 23, 2023 KCC received from counsel for the defendant a list including 8,465 telephone number entries.

2. KCC then performed three rounds of historic reverse telephone lookup searches through three vendors on the 8,465 unique telephone numbers.

3. The historic reverse telephone lookup searches returned 19,575 name and address combination results.

4. This means the historic reverse telephone lookup searches returned for some telephone numbers more than one name and address combination result, which is to be expected as telephone numbers can be reassigned over time.

5. KCC, in turn, removed from the 19,575 name and address combination results: 335 duplicate records, 249 unmatched phone numbers, and 30 records associated with the same toll-free phone number.

6. KCC then ran the remaining 18,961 sets of contact information through the National Change of Address system, which updated 1,287 addresses for people who moved during the previous four years and filed a change of address with the U.S. Postal Service.

¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Settlement Agreement filed in April 12, 2023 and/or the Preliminary Approval Order.

MAILING OF THE NOTICE PACKET

7. On June 6, 2023, KCC caused the postcard Notice to be printed and mailed to the 18,961 names and mailing addresses in the Class List. A true and correct copy of the Notice is attached hereto as Exhibit A.

8. Since mailing the Notice to potential Class Members, KCC has received 93 Notices returned by the USPS with forwarding addresses. KCC immediately caused Notices to be re-mailed to the forwarding addresses supplied by the USPS.

9. Since mailing the Notice to potential Class Members, KCC has received 2,491 Notices returned by the USPS with undeliverable addresses. Through credit bureau and/or other public source databases, KCC performed address searches for these undeliverable Notices and was able to find updated addresses for 342 potential Class Members. KCC promptly re-mailed Notices to the found new addresses.

THE SETTLEMENT WEBSITE

10. On June 16, 2023, KCC caused the settlement website (www.CeterisTCPASettlement.com) to go live in accordance with the Preliminary Approval Order. The website URL was set forth in the Notice and Claim Form. Visitors of the website can download copies of the Long Form Notice and other case-related documents. A true and correct copy of the Long Form Notice is attached hereto as Exhibit B. As of August 8, 2023, there have been 914 users, 1,271 sessions/hits (active visits to the website) and 3,122 pageviews of the website.

TOLL-FREE TELEPHONE NUMBER

11. KCC established and continues to maintain a toll-free telephone number (844) 476-0026 dedicated to providing automated information about the Settlement, important deadlines, Settlement Class Member's rights, and instructions on how they can request a copy of the Notice.

CLAIM FORMS

12. The deadline for Class Members to either mail claims or file claims online was August 2, 2023. To date, KCC has received:

- 581 complete, valid and timely claim forms;
- 9 claim forms which lacked a signature, but which were otherwise timely and

valid; and

- 2 duplicate claims.

These numbers are subject to change as it is possible to receive timely postmarked claims within the next couple weeks. Any updated figures will be immediately provided to counsel for the Parties.

OBJECTIONS TO THE SETTLEMENT

13. The postmark deadline for Class Members to object to the settlement was August 2, 2023. As of the date of this declaration, KCC has received no objections to the settlement.

EXCLUSIONS TO THE SETTLEMENT

14. The postmark deadline for Class Members to exclude themselves from the settlement was August 2, 2023. As of the date of this declaration, KCC has received no exclusions to the settlement.

ADMINISTRATION COSTS

15. KCC has incurred \$32,057.83 in costs through the end of July 2023.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 14, 2023, at El Segundo, California

Vanessa Santacruz

Vanessa Santacruz

EXHIBIT A

This is a notice of a settlement of a class action lawsuit.

If this is your notice of a lawsuit against you,

If you received a ringless voice message on your cellular telephone from Ceteris Portfolio Services, LLC between June 1, 2021 and February 1, 2023, you may be entitled to compensation as a result of the settlement in the class action lawsuit captioned:

Fralish v. Ceteris Portfolio Services, LLC
Case No. 3:22-cv-176-DRL-MGG (N.D. Indiana)

A federal court authorized this notice.
This is not a solicitation from a lawyer.

Please read this notice carefully.
It summarily explains your rights and options
to participate in a class action settlement.



VISIT THE
SETTLEMENT
WEBSITE BY
SCANNING
THE PROVIDED
QR CODE

CTPF

Fralish v. Ceteris Portfolio Services, LLC

/s/ MGG Class Action Services

P.O. Box 6150

Novato, CA 94948-6150

«3of9 barcode»

«BARCODE»

Postal Service: Please do not mark barcode

CTPF «Claim Number»

PIN: «PIN»

«FIRST1» «LAST1»

«ADDRESS LINE 2»

«ADDRESS LINE 1»

«CITY», «STATE»«PROVINCE» «POSTALCODE»

«COUNTRY»

Claim Form

Claim ID: «Claim Number»

CHANGE OF ADDRESS (ONLY IF DIFFERENT FROM BELOW):

First Name:

Last Name:

Primary Address:

City:

State:

ZIP:

Telephone number on which I received the message(s):

«FirstNAME» «LastNAME»

«Addr1» «Addr2»

«City», «State»«FProv» «Zip»«FZip»

«FCountry»

I received one or more ringless voice messages or voice mail box direct drops (a prerecorded message left on voicemail without the telephone ringing) from Ceteris Portfolio Services, LLC on my cellular telephone between June 1, 2021 and February 1, 2023. I did not have an account in collections with Ceteris Portfolio Services, LLC and I wish to participate in this settlement.

Signature

Date (mm/dd/yyyy)

To receive a payment, you must enter all requested information above, sign and mail this claim form, postmarked on or before August 2, 2023.
Or you may submit a claim through the settlement website, www.CeterisTCPASettlement.com.

To exclude yourself from the class action settlement, you must mail a written request for exclusion to the claims administrator, postmarked on or before August 2, 2023. Your request must include the information required by the Court's May 19, 2023 Order.

«3OF9 BARCODE »

«BARCODE»

What is this lawsuit about? John Fralish filed a class action lawsuit against Ceteris Portfolio Services, LLC (“Ceteris”), alleging that Ceteris violated the Telephone Consumer Protection Act (“TCPA”) by delivering ringless voice messages to cellular telephone numbers assigned to persons who do not have accounts in connections with it. Ceteris denies Mr. Fralish’s allegations, and denies it violated the TCPA. The Court has not decided who is right or wrong. The parties have agreed to a settlement.

Why did you receive this notice? You received this notice because Ceteris’ records identified you as a potential member of the following settlement class: “All persons and entities throughout the United States (1) to whom Ceteris Portfolio Services, LLC delivered, or caused to be delivered, a voice mail box direct drop or ringless voice message, (2) between June 1, 2021 and February 1, 2023, (3) to a cellular telephone number Ceteris Portfolio Services, LLC designated with an internal ‘wrong number’ designation at some point during the account history.”

What does the settlement provide? Ceteris will establish a settlement fund of \$761,850. Out of the settlement fund will be paid: (1) settlement compensation to participating settlement class members; (2) an award of attorneys’ fees not to exceed one-third of the total settlement fund, subject to the Court’s approval; (3) litigation costs and expenses incurred by class counsel in litigating this matter not to exceed \$9,500, subject to the Court’s approval; (4) costs of notice and administration; and (5) a service award to Mr. Fralish not to exceed \$5,000, subject to the Court’s approval. It is estimated that each valid claimant will receive between \$300 and \$900, depending on the number of settlement class members who participate.

What are your legal rights and options? If you fall within the settlement class, you have four options. First, you may timely complete and return the claim form found on the back of this postcard, or timely submit a claim online at www.CeterisTCPASettlement.com, by August 2, 2023, in which case you will receive a proportionate share of the settlement fund after deducting attorneys’ fees, costs, and expenses, and will release certain claims you may have against Ceteris. Second, you may do nothing, in which case you will not receive a share of the settlement fund, but you will release certain claims you may have against Ceteris. Third, you may exclude yourself from the settlement, in which case you will neither receive a share of the settlement fund, nor release any claims you may have against Ceteris. Or fourth, you may object to the settlement. To obtain additional information about your legal rights and options, visit www.CeterisTCPASettlement.com, or contact the claims administrator by writing to *Fralish v. Ceteris Portfolio Services, LLC*, c/o KCC Class Action Services, P.O. Box 6150, Novato, CA 94948-6150.

When is the fairness hearing? The Court will hold a fairness hearing on September 15, 2023, at 10:00 a.m. (EDT). The hearing will take place in the Robert L. Miller, Jr. Courtroom in South Bend, Indiana. At the fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and, if so, whether final approval of the settlement should be granted. The Court will also hear objections to the settlement, if any. The Court may make a decision at that time, postpone a decision, or continue the hearing.



PLACE
STAMP
HERE

FRALISH V. CETERIS PORTFOLIO SERVICES, LLC
C/O KCC CLASS ACTION SERVICES
P.O. BOX 6150
NOVATO, CA 94948-6150



EXHIBIT B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

John Fralish, *on behalf of himself and
others similarly situated,*

Plaintiff,

v.

Ceteris Portfolio Services, LLC,

Defendant.

CASE NO. 3:22-cv-176-DRL-MGG

WEBSITE Q & A NOTICE

**This is a notice of a settlement of a class action lawsuit.
This is not a notice of a lawsuit against you.**

If you received a ringless voice message or a voice mail box direct drop on your cellular telephone from Ceteris Portfolio Services, LLC (“Ceteris”), between June 1, 2021 and February 1, 2023, and you did not have an account in collections with Ceteris, you may be entitled to compensation as a result of the settlement in the class action lawsuit captioned:

John Fralish v. Ceteris Portfolio Services, LLC, No. 3:22-cv-00176-DRL-MGG (N.D. Indiana)

**A federal court authorized this notice.
This is not a solicitation from a lawyer.**

**Please read this notice carefully.
It explains your rights and options to participate in a class action settlement.**

What are your legal rights and options?	
SUBMIT A TIMELY CLAIM FORM	If you are a class member and you submit a timely, valid claim form, you will receive a proportionate share of the \$761,850 settlement fund after expenses are deducted, and you will release claims you may have against Ceteris related to this case. It is estimated that each claimant will receive between \$300 and \$900.
DO NOTHING	If you are a class member and you do nothing, you will <u>not</u> receive a share of the settlement fund, but you will release claims you may have against Ceteris related to this case.
EXCLUDE YOURSELF	If you are a class member and you exclude yourself from the settlement, you will <u>not</u> receive a share of the settlement fund, and you will <u>not</u> release any claims you have against Ceteris.
OBJECT	If you are a class member, you may object to the settlement.

Why is this notice available?

This is a notice of a proposed settlement in a class action lawsuit. The settlement would resolve the lawsuit John Fralish filed against Ceteris. Please read this notice carefully. It explains the lawsuit, the settlement, and your legal rights, including the process for receiving a settlement check, excluding yourself from the settlement, or objecting to the settlement.

What is this lawsuit about?

Mr. Fralish filed a class action lawsuit against Ceteris, alleging that it violated the Telephone Consumer Protection Act (“TCPA”) by delivering ringless voice messages, or voice mail box direct drops, to cellular telephone numbers assigned to persons who do not have accounts in collections with Ceteris. A ringless voice message, or voice mail box direct drop, is a prerecorded message left on a voicemail without the telephone ringing. In other words, Mr. Fralish filed a lawsuit against Ceteris, alleging that Ceteris violated the TCPA by delivering voice messages to wrong cellular telephone numbers—in that the subscriber to the telephone number was different from the party that Ceteris was trying to reach. Ceteris denies the allegations. The parties have agreed to a settlement.

Why is this a class action?

In a class action, one or more people called “class representatives” file a lawsuit on behalf of people who have similar claims. All of these people together are a “class” or “class members.” The Court accordingly resolves claims for all class members, except for those who exclude themselves from the class.

Why is there a settlement?

Mr. Fralish, on the one hand, and Ceteris, on the other, have agreed to settle the lawsuit to avoid the time, risk, and expense associated with it, and to achieve a final resolution of the disputed claims. Under the settlement, class members will obtain a payment in settlement of the claims that Mr. Fralish raised in the lawsuit. Mr. Fralish and his attorneys think the settlement is best for all class members.

How do you know if your claims are included in the settlement?

This settlement resolves claims on behalf of the following class:

All persons and entities throughout the United States (1) to whom Ceteris Portfolio Services, LLC delivered, or caused to be delivered, a voice mail box direct drop or ringless voice message, (2) between June 1, 2021 and February 1, 2023, (3) to a cellular telephone number Ceteris Portfolio Services, LLC designated with an internal “wrong number” designation at some point during the account history.

Ceteris has identified 8,465 unique cellular telephone numbers with a “wrong number” designation in its records and to which it delivered, or attempted to deliver, a voice mail box direct drop or ringless voice message between June 1, 2021 and February 1, 2023.

What does the settlement provide?

Ceteris will establish a settlement fund in the amount of \$761,850. Out of the settlement fund, Ceteris will pay:

- a. Settlement compensation to the class members;
- b. The costs and expenses of administering the class action settlement;
- c. An award of attorneys’ fees, subject to the Court’s approval;
- d. Costs and expenses incurred litigating this matter, subject to the Court’s approval; and
- e. A service award to Mr. Fralish, subject to the Court’s approval.

Each class member who submits a timely and valid claim form will be entitled, subject to the provisions of the settlement agreement, to his or her equal share of the settlement fund as it exists after deducting:

- a. Costs and expenses of administering the class action settlement, which will not exceed \$65,000;
- b. Attorneys’ fees in an amount not to exceed one-third of the total settlement fund, or 36% of the net settlement fund after deducting costs and expenses and a service award, subject to the Court’s approval;
- c. Costs and litigation expenses not to exceed \$9,500, subject to the Court’s approval; and
- d. A service award for Mr. Fralish, not to exceed \$5,000, subject to the Court’s approval.

How can you get a payment?

You must mail a valid claim form to the *Fralish v. Ceteris Portfolio Services, LLC*, c/o KCC Class Action Services, P.O. Box 6150, Novato, CA 94948-6150, postmarked by **August 2, 2023**. Or you must submit a valid claim through www.CeterisTCPASettlement.com by the same date.

When will you be paid?

If the Court grants final approval of the settlement, settlement checks will be mailed to class members who timely mailed or submitted valid claim forms no later than 45 days after the judgment in the lawsuit becomes final. If there is an appeal of the settlement, payment may be delayed.

What rights are you giving up in this settlement?

Unless you exclude yourself from the settlement, and if you meet the class definition, you will be considered a member of the class, which means you give up your right to sue or continue a lawsuit against Ceteris over the released claims. Giving up your legal claims is called a release. Unless you formally exclude yourself from the settlement, you will release your claims against Ceteris.

For more information on the release, released parties, and released claims, you may obtain a copy of the class action settlement agreement from the Clerk of the United States District Court for the Northern District of Indiana, or on the settlement website, www.CeterisTCPASettlement.com.

How can you exclude yourself from the settlement?

You may exclude yourself from the settlement, in which case you will not receive a payment. If you wish to exclude yourself from the settlement, you must mail a written request for exclusion to the claims administrator, at the addresses set forth below, postmarked by **August 2, 2023**. You must include in your request for exclusion your:

- a. Full name;
- b. Address;
- c. Cellular telephone number called by Ceteris demonstrating that you are a member of the class; and
- d. A clear and unambiguous statement that you wish to be excluded from the settlement, such as “I request to be excluded from the settlement in the *Fralish v. Ceteris* action.”

You must sign the request personally. If any person signs on your behalf, that person must attach a copy of the power of attorney authorizing that signature.

When and where will the Court decide whether to approve the settlement?

The Court will hold a fairness hearing on **September 15, 2023, at 10:00 a.m (EDT)**. The hearing will take place in the Robert L. Miller, Jr. Courtroom in South Bend, Indiana. At the fairness hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and, if so, whether final approval of the settlement should be granted. The Court will hear objections to the settlement, if any. The Court may make a decision at that time, postpone a decision, or continue the hearing.

Do you have to attend the hearing?

No. You are not required to attend the hearing. But you are welcome to attend the hearing at your own expense. You cannot speak at the hearing if you have excluded yourself from the class settlement. Once you have excluded yourself, the class settlement does not affect your legal rights.

What if you want to object to the settlement?

If you do not exclude yourself from the settlement, you can object to the settlement if you do not believe it is fair, reasonable, and adequate. If you wish to object, you must mail a written notice of objection, postmarked by **August 2, 2023**, to class counsel, Ceteris’s attorneys, and to the Court, at the following addresses:

<u>Class Counsel:</u>	<u>Defendant’s Counsel:</u>	<u>Court:</u>
Michael L. Greenwald Greenwald Davidson Radbil PLLC 5550 Glades Rd., Suite 500 Boca Raton, FL 33431	Richard J. Perr Kaufman Dolowich Voluck Four Penn Center 1600 JFK Blvd., Suite 1030 Philadelphia, PA 19103	U.S. District Court for the Northern District of Indiana 102 Federal Building 204 S. Main Street South Bend, IN 46601

You must include in your objection your:

- a. Full name;
- b. Address;
- c. Cellular telephone number to which Ceteris delivered a ringless voice message or a voice mail box direct drop to demonstrate that you are a member of the Settlement Class;
- d. A statement of the specific objection(s);
- e. A description of the facts underlying the objection;
- f. A description of the legal authorities that support each objection; and
- g. A statement noting whether you intend to appear at the fairness hearing.

By when must you enter an appearance?

Any class member who objects to the settlement and wishes to enter an appearance must do so by **August 2, 2023**. To enter an appearance, you must file with the Clerk of the Court a written notice of your appearance and you must serve a copy of that notice, by U.S. mail or hand-delivery, upon class counsel and Ceteris's attorneys, at the addresses set forth below.

What if you do nothing?

If you do nothing and the Court approves the settlement agreement, you will not receive a share of the settlement fund, but you will release any claim you have against Ceteris related to the allegations in this case. Unless you exclude yourself from the settlement, you will not be able to sue or continue a lawsuit against Ceteris over the released claims.

What will happen if the Court does not approve the settlement?

If the Court does not finally approve the settlement or if it finally approves the settlement and the approval is reversed on appeal, or if the settlement does not become final for some other reason, you will receive no benefits and the lawsuit will continue.

Who are Mr. Fralish's attorneys?

Mr. Fralish's attorneys are:

Michael L. Greenwald
Greenwald Davidson Radbil PLLC
5550 Glades Road, Suite 500
Boca Raton, FL 33431

The Court has appointed Mr. Fralish's attorneys to act as class counsel. You do not have to pay class counsel. If you want to be represented by your own lawyer, and have that lawyer appear in Court for you in this case, you must hire one at your own expense.

Who are Ceteris's attorneys?

Ceteris's attorneys are:

Richard J. Perr
Graeme E. Hogan
Kaufman Dolowich Voluck
Four Penn Center
1600 JFK Boulevard, Suite 1030
Philadelphia, PA 19103

Before what Court is this matter pending?

Mr. Fralish filed his class action lawsuit in the following Court:

United States District Court for the Northern District of Indiana
102 Federal Building
204 S. Main Street
South Bend, IN 46601

Where can you get additional information?

This notice is only a summary of the settlement. All documents filed with the Court, including the full class action settlement agreement, may be reviewed or copied at the United States District Court for the Northern District of Indiana. In addition, pertinent case materials, including the settlement agreement, are available at the settlement website, **www.CeterisTCPASettlement.com**.

If you would like additional information about this matter, please contact:

Fralish v. Ceteris Portfolio Services, LLC
c/o KCC Class Action Services
P.O. Box 6150
Novato, CA 94948-6150

Please do not call the Judge about this case. Neither the Judge, nor the Clerk of the Court, will be able to give you advice about this case. Furthermore, neither Ceteris nor Ceteris's attorneys represent you, and they cannot give you legal advice.